IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION. 267 OF 2006

Deepak Bhalchandra Kulkarni.... Applicant

versus

The State of Maharashtra & ors. ... Respondents.

Shri Niteen Pradhan with Mrs. S.D.Khot for the appllicant.
Ms. S.D.Shinde APP for State.

CORAM; V.M. KANADE, J.

DATED; JANUARY 27, 2006.

P.C:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with an offence, which was registered by Deccan Gymkhana Police station vide C.R.No. 579 of 2005 for the offence punishable under sections 420, 467, 468, 471 read with 34 of IPC. The applicant is working as an Engineer in Pune Municipal Corporation and at present he is holding the post of Assistant Engineer.

3. The officers of the Corporation discovered a fraud which was committed by certain persons in connection

with the grant of TDR and accordingly a complaint was registered with Deccan Gymkhana police station against the owner of the said land. It was alleged that certain documents were forged and application was made to the Corporation for obtaining TDR rights though the property infact had been acquired by the Corporation and compensation has been duly received by the owners of the said land.

4. During the course of investigation it transpired that certain documents have been forged for the purposes of obtaining TDR from the Corporation. The charge sheet has been filed against five accused. Present applicant has not been arrayed as accused in the said charge sheet which was filed in the District court. The learned APP appearing on behalf of the State submits that investigation against the present applicant is not yet completed. He also submits that so far as the present applicant is concerned it is alleged that application which was made by the accused through certain persons was routed through the present applicant. Therefore application filed by him may be rejected.

5. I have heard the learned counsel appearing on behalf of the applicant and the learned APP for the State. It is an admitted position that the applicant

was working as Assistant Engineer and at the relevant period and he was given the job of accepting the application for TDR from various parties, which was scrutinised by the Junior Engineer without passing any order, either accepting the proposal or rejecting the same. The applicant had to submit said documents to his superior officers, who alone was entitled to pass orders either for accepting or rejecting the said application. Since there is no evidence against the present applicant, showing that he was involved in any conspiracy or that he had acted as such, in my view, the applicant is entitled to be released on bail. The applicant has also annexed copy of the enquiry report with this application which was conducted by the enquiry officer, who was appointed by the Municipal Corporation in respect of the alleged fraud which had taken place and in the said report also name of the petitioner is not shown as persons who had prepensed the fraud or had taken any active part to the said fraud.

6. In this view of the matter the applicant be released on bail in the sum of Rs.10,000/- with one or two sureties in the like amount. He shall report to Deccan Gymkhana police station once in a week.

7. It is further clarified that the investigating officer may continue with the investigation and if any material is found against the present applicant, he is at liberty to apply to the Metropolitan Magistrate under the provisions of section 173(8) and also at liberty to apply for cancellation of bail if so desired.

8. With these directions the application is disposed of.

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